

Applicati n of Ordish et al. - Serial No. 09/010,919

- Claims 43-66 stand rejected over the combination of Wagner in view of Benton.

Applicants address each area in turn.

As to the objection to the drawings, corrected drawings will be submitted when the application is allowed.

As to the objections to the claims, Applicants have amended claims 53-63 and 66 in order to change all occurrences of "acknowledgment" to --acknowledgement--. Also, Applicants amend claim 62 in order to conform the initial bid or offer

As to the rejection of the claims over the combination of Wagner in view of Benton, Applicants traverse.

For example, claim 43 recites, *inter alia*:

“ a network connected to workstations;

...

a second workstation of said workstations, said second workstation receiving a second signal indicative of said bid or said offer from said network and for sending an acknowledgement of said received bid or said received offer to said network;

said network sending at least a third signal to said first workstation and at least a fourth signal to said second workstation, said at least third and said at least fourth signals indicating

Application of Ordish et al. - Serial No. 09/010,919

acknowledgement of said acknowledgement from said second workstation.”

The Examiner asserts that Wagner provides a number of components of claim 43. While Wagner teaches bids and offers in a computer matching system, it fails to teach or suggest a signal that is an “acknowledgement of said received bid or said received offer” and transmitted “to said network.” The Examiner asserts that lines 36-41 of column 20 suggest the “acknowledgement” recitation of the claim. This section of Wagner, including lines 15-53 of column 20, relates to a trading making a bid or offer. The section quoted by the Examiner is not the received “acknowledgement” signal but rather a trader making a bid or offer. Accordingly, Wagner fails to teach or suggest the above-recited claim language.

Benton also fails to teach or suggest the missing language. Benton relates to a point to point money transfer confirmation system. Benton does not relate to trading with bids and offers. Neither does it relate to trading over a network. See column 2, lines 35-40 where Benton indicates that it is an improvement in transferring funds between buyers and sellers:

“This invention is a modification to and implementation of a conventional facsimile machine to be operative in a transaction mode of operation for carrying out transactions between buyers and sellers.”

Application of Ordish et al. - Serial No. 09/010,919

Benton is not directed to trading as Benton relies on the fixed values of the exchanges to be predefined. See column 8, lines 46-59. After the buyer and seller have agreed on a price for goods and services, they then activate the transfer system taught by Benton. To this end, Benton provides no teaching on enhancing or improving any trading with bids and offers. Rather, Benton provides improvements to the transfer of predetermined quantities.

The language relied upon in Benton fails to teach or suggest what the Examiner contends it does. Lines 45-56 of column 13 relate to the final transmission of the executed funds exchange from a *buyer's* terminal 102 to the *buyer's* card and from a *seller's* terminal 102 to a *seller's* card. The signals present in lines 45-56 are local signals only. There is no transmission of the signal resident in step 560 from one terminal 102 to the other terminal 102. Thus, this language cannot be relied upon as supporting the claimed reception of a signal from across a network.

The Examiner generalizes that "each important transaction should be followed by an acknowledgement signal." However, the Examiner has failed to establish that the combination teaches transmitting to the second workstation "a second signal indicative of said bid or said offer from said network." Accordingly, Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness as required by MPEP § 2142 and § 2143.

Application of Ordish et al. - Serial No. 09/010,919

Further, the combination of Wagner and Benton would have resulted in a trading system of bids and offers (Wagner), where after the bid is accepted (a predefined element in Benton), in which two terminals connect point-to-point to execute and confirm an exchange of funds (Benton). Regardless of the number of confirmations disclosed in Benton, the combination of the two references fails to teach or suggest all recitations of the claims including the signal comprising “an acknowledgement of said received bid or said received offer to said network.”

Finally, the Examiner indicates that known teachings in the art taken in conjunction with Wagner alone would have rendered obvious the combination. The Examiner contends that

“when a human intermediary handles transactions between two parties, the obvious solution would be to simply ask both parties whether they have received the message. If both reply back, then the intermediary would notify the parties of a successful message exchange. If the parties did not receive such a final confirmation signal, they would reasonably assume that there was some problem with the message transfer.”

Applicants respectfully note that the situation posed by the Examiner is nowhere supported by the prior art except as disclosed by Applicants' disclosure. Such hindsight reconstruction to create an “obvious solution” is incorrect. If the Examiner has a reference that substantiates the “obvious solution” then he is requested to produce it or substantiate the rejection as required by 37 C.F.R. § 1.104(d)(2).

Application of Ordish et al. - Serial No. 09/010,919

The remaining independent claims and dependent claims are believed allowable for at least similar reasons.

New claim 67 is allowable for reasons provided with respect to claim 43. No new matter has been entered.

If the Examiner has any questions, the Examiner is invited to contact the undersigned to further prosecution.

Respectfully submitted,

By:

for *Charles R. Gembeli*
Joseph M. Potenza
Registration No. 28,175 *B#38.800*

BANNER & WITCOFF, LTD.
1001 G Street, N.W., 11th Floor
Washington, D.C. 20001
(202) 508-9100

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